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SUBJECT: UN HUMAN RIGHTS REP YASH GHAI VISITS CAMBODIA,
MEETS WITH DPM SAR KHENG

¶1. (SBU) Summary. On May 31, UN Special Rapporteur for Human Rights Yash Ghai briefed the diplomatic corps regarding his visit to Cambodia and his meeting earlier the same day with DPM and Minister of Interior Sar Kheng, and fielded questions regarding his draft report on Cambodia. Yash Ghai is scheduled to speak before the Human Rights Council on June ¶12. He told diplomats that he would add positive comments regarding the peaceful nature of the April 1 commune council elections as well as Cambodia become signatory to the optional protocol against torture to his report -- both events having occurred after his initial draft report of January 2007. The RGC has provided Ghai with written comments to the report, but those were reportedly still being translated from Khmer to English as of last week. End Summary.

Yash Ghai Meets with Sar Kheng

¶2. (SBU) UN Special Rapporteur for Human Rights for Cambodia Yash Ghai visited the country during the last week of May, meeting with a wide array of NGOs, diplomats, political figures, international organizations, and Minister of Interior Sar Kheng. Human rights NGOs used the visit to underscore continuing concerns on the part of civil society regarding the poor state of the judiciary, the climate of impunity, increased conflicts over land, threats to freedom of association and speech, and the lack of police progress in resolving high-profile killings. ADHOC and LICADHO called on the UN Human Rights Council to renew Yash Ghai's mandate, as the RGC has failed to respond to any of the recommendations outlined in Yash Ghai's earlier reports, they claim. The draft report of the UN human rights representative will be presented to the Human Rights Council on June 12, and Yash Ghai's visit to Cambodia was a final effort to receive public comment, update the report, and receive RGC reaction.

¶3. (U) The RGC countered the NGO statement with its own criticism of Yash Ghai's report, calling it unbalanced and claiming that it ignored many positive elements of the human rights environment in Cambodia. Ghai had asked for meetings with a number of senior RGC officials, including PM Hun Sen and the Ministers of Justice and Interior. Prior to Ghai's arrival, acting head of the UN Human Rights Office in Cambodia Henrik Stenman told us that the RGC had not identified anyone to meet with Yash Ghai. Stenman said that some RGC sources had indicated that senior advisor to the PM on human rights matters, Om Yentien, might be delegated by the RGC to receive Ghai, but the UN office was not optimistic that anyone would grant Ghai a meeting.

14. (SBU) On May 31, the last day of Ghai's visit, the RGC sent a last-minute invitation to Ghai to meet with MOI Sar Kheng in mid-afternoon -- the same time that Ghai was scheduled to meet with the diplomatic corps. As a result, the embassy representatives were shifted to just after the Sar Kheng meeting, which allowed for a readout of Yash Ghai's meeting with the MOI. In briefing the diplomatic corps, Ghai said that Sar Kheng's chief complaint was that the UN rep had not given the RGC adequate credit for progress in the human rights environment in Cambodia. The MOI took particular exception to Yash Ghai's allegation that the human rights breaches were "systemic." Ghai said that he countered by explaining that the subordination of the judiciary by the executive branch did result in fundamental and systemic abuses of basic human rights. Sar Kheng also reportedly told Ghai that the international community repeatedly praises the government for positive developments in the human rights situation compared with other countries in the region. The MOI promised to provide Yash Ghai with specific comments on the draft report once they had been translated from Khmer to English.

15. (SBU) Yash Ghai told diplomats that he would present his findings on June 12 to the Human Rights Council in Geneva. He noted that he would add references to the peaceful commune council elections but noted that NGOs remain concerned over the lack of independence of the National Election Committee as well as the involvement of government authorities in electoral activities. Ghai said he remains worried over the proposed legislation on the right to peacefully assemble, noting the difficulties that civil society organizations face in trying to get RGC permission to hold demonstrations. The

PHNOM PENH 00000752 002 OF 002

MOI told Ghai that the RGC only refuses permission when they are aware that there will be violence or problems. In response to factory union leader Hy Vuthy's murder, the MOI assured Ghai that an investigation was underway.

16. (SBU) Ghai said that he conveyed to Sar Kheng that he (Ghai) took no pleasure in criticizing the government, and that he would add references to the April 1 elections as well as Cambodia's signing on to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which Cambodia ratified in January 2007 -- both items took place following the release of Ghai's preliminary draft and the UN rep said the final report would reference both topics. Ghai added that he advised Sar Kheng that the RGC might make use of Ghai's expertise to improve the human rights situation in Cambodia; the MOI was noncommittal.

Donor/Diplomatic Response

17. (SBU) Donors agreed that there was much in Ghai's report that was accurate; Canada welcomed the emphasis on land and the rights of indigenous peoples. The UK Ambassador said that his government had commissioned two reports on human rights and governance, respectively. The Australian Ambassador was pleased that Ghai would be adding some more positive elements to the report, noting that if it's cast in a less critical light, the RGC might be more receptive. The Australian Ambassador questioned Ghai's recommendation that criminal laws relating to defamation, disinformation, and incitement be repealed when many countries have such laws on the books; Ghai responded that Western nations with such laws rarely, if ever, have enforced them in recent times. He added that in a country that lacks proper judicial institutions, there are no safeguards -- better to remove such laws. UNDP outlined many electoral concerns; Ghai said that his mission had focused on elections for the first time and that he had recommendations for 2008.

Comment

18. (SBU) Ghai was pleased that he had an opportunity to meet with a senior RGC official during his visit, although he clearly stands behind his report. He noted that he will reference separately the RGC's comments regarding his report when he delivers his presentation in Geneva, but made no promises about "correcting" the report -- something the RGC has requested. The RGC likely decided that it was better for someone senior in the RGC to meet with Ghai and provide an official point of view, rather than having the special representative appear before the Council in Geneva saying the RGC had refused a meeting and ignored the draft report. End Comment.
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